

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

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| UNITED STATES OF AMERICA | § | |
| | § | |
| vs. | § | Case No. 4:07cr24 |
| | § | (Judge Schell) |
| ANQUIONE QUENNEL MCCUIN (1) | § | |

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 17, 2009, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Miriam Rea.

On December 12, 2007, Defendant was sentenced by the Honorable Richard A. Schell to five (5) months' custody followed by three (3) years of supervised release for the offense of Possession of a Firearm While an Unlawful User of a Controlled Substance. On May 8, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On October 6, 2009, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following standard conditions: (1) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons; and (3) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer. The petition alleges violation of the following special conditions: (1) the defendant shall participate in a program of testing and

treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer; and (2) the defendant shall reside in a residential reentry center, or similar facility, in a community corrections component for a period of 120 days to commence upon release from confinement and shall observe the rules of that facility.

The petition alleges that Defendant committed the following acts: (1) The defendant failed to submit a written monthly report in November 2008, and July 2009. The defendant has submitted delinquent monthly reports in June, July, and December 2008, January, March, April, May and August 2009; (2) The defendant has not maintained stable employment since May 8, 2008, the commencement of his supervised release; (3) On September 21, 2009, the U.S. Probation Office received notification from the Colony Police Department that the defendant was questioned on September 19, 2009. The defendant did not report this contact to the U.S. Probation Office; (4) The defendant failed to report for drug testing at Community Health Core in Paris, Texas, on September 4 and 15, 2008, October 21, 2008, November 4, 2008, January 12, and 28, 2009 and February 2, 2009; (5) The Defendant was unsuccessfully discharged from Volunteers of America in Hutchins, Texas, on September 16, 2009.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of nine (9) months, which includes the thirty-six (36) days of community confinement that remain unserved, with no supervised release to follow. It is also recommended that

this sentence should be served concurrent to any sentence of imprisonment the Defendant is currently serving. It is also recommended that Defendant be housed in the Bureau of Prisons, Texarkana Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 18th day of November, 2009.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE